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REMARKS

Claims 1-11 are pending in the application. Claims 1-11 are rejected. Claims 12-23 have been canceled in response to a Restriction Requirement. Applicant reserves the right to pursue claims 12-23 in one or more continuation and/or divisional applications.

Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boston (US Patent 4,766,293, hereinafter Boston) in view of Roslak et al. (US Patent 7,010,501, hereinafter Roslak).

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or is simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., to just avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, since a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewritten to include the limitations of claims that previously depended from it. Thus, by such rewriting no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

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Rejection Under 35 U.S.C. 103

Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boston in view of Roslak. The rejection is traversed.

Boston and Roslak, alone or in combination, fail to teach or suggest Applicant's invention of independent claim 1, and thus dependent claims 2-11, as a whole.

Boston discloses a portable financial transaction card capable of authorizing a transaction in foreign currencies. As disclosed in Boston, a transaction limit associated with each account of the cardholder is stored in memory. The cardholder selects the foreign currency which will be used for a purchase and, after selection of the foreign currency, the processor will convert the transaction limit from a local or base currency to the selected foreign currency. During the transaction, the processor compares the transaction amount with the converted transaction limit to determine if an approval code should be generated. (Boston, Abstract).

Boston, however, alone or in combination with Roslak, fails to teach or suggest Applicant's claim 1, as a whole. Namely, Boston fails to teach or suggest at least the limitation of "evaluating said transaction data using said budgetary data to determine at least whether a transaction value exceeds a budgetary constraint for a transaction, wherein said budgetary constraint comprises at least one of an annual budget and a periodic budget determined via the budgetary item identifier field of the budgetary data using a budgetary item identifier of the transaction," as claimed in Applicant's claim 1.

Boston is devoid of any teaching or suggestion of budgetary data. Rather, Boston merely provides a capability whereby a transaction amount is compared with a transaction limit for a selected account stored on the financial transaction card. Specifically, Boston states that "[t]he transaction limit is set by the issuer and can take a number of forms. Where the account is for checking, savings, or similar types of accounts, the transaction limit will typically represent the amount which the customer has on deposit with the issuer...The transaction limit can also be a fixed dollar level based upon the creditworthiness of the customer." (Boston, Col. 5, Lines 44-58, Emphasis added).

Thus, account information, as described in Boston, is simply not budgetary data, as claimed in Applicant's claim 1. Specifically, information about the savings account, checking account, or creditworthiness of a customer, as taught in Boston, is different than the annual

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budget or periodic budget information of Applicant's claim 1. Boston relies solely on account data. Boston is devoid of any teaching or suggestion of budgetary data. Thus, Boston must also fail to teach or suggest the specific budgetary information claimed in Applicant's claim 1. Thus, for at least these reasons, Boston fails to teach or suggest at least the limitation of "wherein said budgetary constraint comprises at least one of an annual budget and a periodic budget determined via the budgetary item identifier field of the budgetary data using a budgetary item identifier of the transaction," as claimed in Applicant's claim 1.

Furthermore, Roslak fails to bridge the substantial gap between Boston and Applicant's invention of claim 1.

In general, Roslak discloses a personal shopping system for use in the home of a user and a shopping establishment. As disclosed in Roslak, the system includes a host computer which is coupled to a host modem and, optionally, to at least one wireless multi-access point. The portable terminal is configured to read bar codes associated with items related to shopping, and includes a memory, a bar code reader, a wireless transceiver, and a data interface. The data interface of the terminal communicates with a data interface of the shopping establishment kiosk cradle or directly with the shopping establishment's communications network. (Roslak, Abstract).

Roslak, however, alone or in combination with Boston, fails to teach or suggest Applicant's claim 1, as a whole. Namely, like Boston, Roslak fails to teach or suggest at least the limitation of "evaluating said transaction data using said budgetary data to determine at least whether a transaction value exceeds a budgetary constraint for a transaction, wherein said budgetary constraint comprises at least one of an annual budget and a periodic budget determined via the budgetary item identifier field of the budgetary data using a budgetary item identifier of the transaction," as claimed in Applicant's claim 1.

Although Roslak describes shopping transactions, Roslak merely describes transaction tickets associated with scanned items, evaluation of transactions with respect to security, compiling profiles based on shopper transaction history, and like functions. Roslak is devoid of any teaching or suggestion of budgetary data, much less evaluation of transaction data using budgetary data. Thus, Roslak must also be devoid of any teaching or suggestion of using budgetary data to determine at least whether a transaction value exceeds a budgetary constraint for a transaction, much less that the budgetary constraint includes an annual budget and/or a periodic budget determined via the budgetary item identifier field of the budgetary data using a

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budgetary item identifier of the transaction, as claimed in Applicant's claim 1.

As such, Roslak, alone or in combination with Boston, fails to teach or suggest at least the limitation of "evaluating said transaction data using said budgetary data to determine at least whether a transaction value exceeds a budgetary constraint for a transaction, wherein said budgetary constraint comprises at least one of an annual budget and a periodic budget determined via the budgetary item identifier field of the budgetary data using a budgetary item identifier of the transaction," as claimed in Applicant's claim 1.

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. Thus, it is impermissible to focus either on the "gist" or "core" of the invention. Moreover, the invention as a whole is not restricted to the specific subject matter claimed, but also embraces its properties and the problem it solves. Boston and Roslak, alone or in combination, fail to teach or suggest Applicant's claim 1, as a whole.

As such, independent claim 1 is patentable over Boston in view of Roslak under 35 U.S.C. 103(a). Furthermore claims 2-11 depend, directly or indirectly, from independent claim 1 while adding additional elements. Therefore, these dependent claims also are non-obvious and are patentable over Boston in view of Roslak under 35 U.S.C. §103 for at least the same reasons discussed above in regards to independent claim 1.

As such, Applicant's claims 1-11 are patentable over Boston in view of Roslak under 35 U.S.C. §103(a). Therefore, the rejection should be withdrawn.

Secondary References

The secondary references made of record are noted. However, it is believed that the secondary references are no more pertinent to Applicant's disclosure than the primary references cited in the Office Action. Therefore, Applicant believes that a detailed discussion of the secondary references is not necessary for a full and complete response to this Office Action.

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Conclusion

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Michael Bentley at (732) 383-1434 or Eamon Wall at (732) 530-9404 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

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